

REMARKS

The January 25, 2008 Office Action regarding the above-identified application has been carefully considered; and the claim amendments above together with the remarks that follow are presented in a bona fide effort to respond thereto and address all issues raised in that Action. Care has been taken to avoid entry of new matter. The remaining independent claims (now just 11 and 15) have been amended to more specifically distinguish over applied art, and other independent claims have been cancelled. For example, recitations regarding recording coupon use in the history and computing the fee accordingly, from former claims 13 and 17, have been added to claims 11 and 15. As another example, program guide recitations from claims 32 and 33 also have been added to claims 11 and 15. Claims 31, 34, 35, 37, 38 depended from or have been amended to depend from claim 11, and those claims are amended to the extent appropriate to conform to the language of the latest version of claim 11. New claims 40-44 are similar to claims 31, 34, 35, 37 and 38 except that 40-44 depend from and conform to claim 15 instead of 11. Hence, claims 11, 15, 31, 34, 35, 37, 38 and 40-44 are pending, of which claims 11 and 15 are the independent claims. For reasons discussed below, it is believed that this case is in condition for allowance. Prompt favorable reconsideration of this amended application is requested.

Definiteness of the Pending Claims

The latest Office Action included a rejection of the previous version of claims 11, 13, 17, 29, 31-35, 37 and 38 under 35 U.S.C. §112 for alleged indefiniteness. This rejection is traversed.

This rejection asserted that sections of independent claims 11, 13 and 17 were confusing because they “appear to substantially overlap.” Applicants disagree. Within each independent claim, the sections cited relate to means implemented in different elements of the overall system.

To make the element recitations somewhat clearer, Applicants have reformatted the “wherein” language somewhat and added Roman numeral designations to the sections initially indicating that the relevant element of the system “comprises” the subsequently recited means. As such, the claims in fact make quite clear the functions of the means that are implemented in the different system elements.

Consider claim 11 by way of example. The rejection asserted that section (2) relating to the coupon issuance number receiving means at the broadcasting unit overlapped with sections (e) and (h) (formerly section (f)) relating to history storing and calculating means which are parts of the service center. Section (2) is under the recitation (I) which recites that the broadcasting unit comprises such means, whereas the later recitations in paragraphs (e) and (h) are under the recitation (II) which recites that the service center comprises such means. It is respectfully submitted that the claims are quite clear and definite in the current format, with respect to the means and their implementation at the various elements of the system.

The rejection also asserted that section (10) (former section (8)) of claim 17 was confusing in its references to issuance and usage history. Claim 17 has been cancelled but certain aspects thereof have been added to claim 15. In the revised version of claim 15, the history stores date and time when the shopping coupon is issued (section (6)), but it is also updated by adding the date and time when the shopping coupon is used (sections (7)-(8)) to the stored history in accordance with the received coupon use status. In this way, it becomes possible to calculate the number of issuances of the shopping coupon and the number of uses of the shopping coupon (section (9)) and to determine a fee for the broadcast based on both issuances and uses of the coupon (section (10)). It is respectfully submitted that the revised claim language on point is clearly definite.

For the reasons outlined above, the indefiniteness rejection should be withdrawn.

Summary of the Art Rejections

Claims 11, 13, 15, 17, 29, 31-35, 37 and 38 stand rejected under 35 U.S.C. §103(a) as unpatentable over U.S. Publication 2006/0100929 to Spector in view of U.S. Publication No. 2003/0158776 to Landesmann and further in view of U.S. Patent No. 6,282,713 to Kitsukawa et al. (hereinafter Kitsukawa).

Claims 34 and 37 also were rejected under 35 U.S.C. §103(a) as unpatentable over Spector, Landesmann and Kitsukawa et al. and further in view of U.S. Patent No. 4,674,041 to Lemon et al. (hereinafter Lemon).

These rejections are traversed on the ground that none of the combinations proposed in the art rejections would satisfy all of the requirements of either of the independent claims (11 or 15) now pending in this amended application.

Explanation of Patentability of the Pending Claims

As presented above, both independent claims include concise recitations of functions relating to tracking a coupon in relation to a program or commercial message, calculating number of issuances and number of uses of the coupon and charging a fee for the broadcast of the program or commercial message based on the numbers of issuances and uses of the coupon. To facilitate the tracking, information regarding the program or commercial message obtained from an electronic program guide is attached to the shopping coupon issuance request for storage as part of the coupon history.

For example, independent claim 11 includes *inter alia* recitations of:

(I) the broadcasting unit comprises:

...

(3) broadcasting management means for **determining a fee** necessary for the broadcasting of the program or commercial message, on the basis of the number of issuances of the shopping coupon and number of use of the shopping coupon, wherein a provider of the program or commercial message is required to pay the fee, the broadcasting management means **making the fee higher as the number of issuances of the shopping coupon increases and making the fee higher as the number of uses of the shopping coupons increases;**

(II) the service center comprises:

...

(e) history storing means for **storing** a history including the identifier of the shopping coupon and **the information on the program or commercial message included in the shopping coupon issuance request** and date and time when the shopping coupon is transmitted when the coupon transmitting means transmits the shopping coupon to the receiver;

...

(g) history updating means for adding the date and time when the coupon is used to the stored history in accordance with the received used coupon; and

(h) calculating means for **calculating the number of issuances of the shopping coupon and the number of uses of the shopping coupon for the program or commercial message** based on the history; (emphasis added)

Although the system is different (does not include the service center), claim 15 includes somewhat similar recitations on the points discussed here. For example, independent claim 15 includes *inter alia* recitations of:

(I) the broadcasting unit comprises:

...

(6) history storing means for **storing** a history including the identifier of the shopping coupon and **information on the program or commercial message included in the shopping coupon issuance request** and date and time when the shopping coupon is issued when the coupon transmitting means transmits the shopping coupon to the receiver;

...

(8) history updating means for adding the date and time when the shopping coupon is used to the stored history in accordance with the received coupon use status;

(9) coupon issuance and use number analyzing means for calculating the number of issuances of the shopping coupon and the number of uses of the shopping coupon for the program or commercial message based on the history; and

(10) broadcasting management means for determining a fee necessary for broadcasting the program or commercial message, on the basis of number of issuances of the shopping coupon and number of uses of the shopping coupon, wherein a provider of the program or commercial message is required to pay the fee, the broadcasting management means making the fee higher as the number of issuances of the shopping coupon increases and making the fee higher as the number of uses of the shopping coupon increases; (emphasis added)

Although not included in the quotations above, for convenience, each independent claim also recites that the information on the program or commercial message included in the shopping coupon issuance request is information obtained from a program guide (see paragraph (ii) of claim 11 and paragraph (iii) of claim 15).

It is respectfully submitted that the combinations applied in the art rejections do not fairly suggest a system that tracks coupons in association with a broadcast program or commercial message, calculates numbers of issuances and uses of the coupon and determines a necessary fee for the broadcast based on the numbers of issuances and uses of the coupon, in the manner now recited in Applicants independent claims 11 and 15.

Spector (US 2006/01009296) describes the “objects” of the system disclosed therein in paragraphs [0016] to [0019]. Notably, Spector does not suggest that the objects include evaluation (research) regarding the advertising effect for each commercial message, that is, which commercial message increases the number of customers who use the coupon distributed in the commercial message. Spector shows how to request the coupon (paragraph [0032]), how to

distribute the coupon (paragraph [0033]), and which kind of information is included in the coupon (Spector claims 2 and 3). However, Spector does not show inclusion of the commercial (program) name and channel in the request for a coupon or other information on the broadcast program or commercial. Hence, Spector does not show “attaching the information on the program message or commercial message to the shopping coupon issuance request” (claim 11, receiver (ii); claim 15, receiver (iii)) particularly where that information is obtained from a program guide; and Spector does not show “storing a history including the information on the program or commercial message included in the shopping coupon issuance request” (Applicants’ claim 11, service center paragraph (e); Applicants’ claim 15, broadcasting unit paragraph (6)).

Absent recording the program information, it would be difficult to correlate coupon issuance or use to the particular program or commercial. Spector mentions in claim 3 to “compare said time when said coupon is requested with a time when commercials for said product of interest were broadcast.” However, plural commercial messages may be broadcast on different channels in approximately the same time zone. Hence, in Spector, it would be difficult to associate the coupon with the particular commercial message broadcast, on a one to one basis. Accordingly, it is difficult to calculate the coupon issuance number or the coupon usage number for each commercial message; and as a consequence, it would be difficult to evaluate the advertising effect for each commercial message in Spector.

The coupon request information of Spector is analyzed with the pre-stored point-of-sale information to permit the manufacturer to issue a coupon or other promotional device tailored to the consumer and designed to maximize sales (paragraphs [0023] and [0024]). It does not assume any determination of which commercial message delivering the coupon is most effective.

The Landesmann publication shows electronic advertising deliverable through interactive television where advertisers can be charged based on number of messages delivered, or number of consumer actions, redeemed coupons (paragraph [0156]). However, the provisional application (60/243960) of Landesmann appears not to show any electronic advertising deliverable through interactive television. Hence, the advertising deliverable through interactive television aspects of Landesmann relied on in the rejection (Office Action page 4) apparently would have only an effective date of the January 12, 2001 utility filing date of Landesmann, and Applicants reserve the right to antedate Landesmann based on their earlier November 15, 2000 priority, in the event that the rejections based in part on Landesmann are not withdrawn.

Landesmann suggests “making the fee higher as the number of issuances of the shopping coupons increases and making the fee higher as the number of uses of the shopping coupons increases.” However, Landesmann does not teach associating the coupon with the program or commercial message, e.g. by including program or commercial information from the program guide. Accordingly, Landesmann does not show “attaching the information on the program message or commercial message to the shopping coupon issuance request” (Applicants’ claim 11, receiver paragraph (ii); Applicants’ claim 15, receiver paragraph (iii)) and does not show “storing a history including the information on the program or commercial message included in the shopping coupon issuance request” (Applicants’ claim 11, service center paragraph (e); Applicants’ claim 15, broadcasting unit paragraph (6)), either. Accordingly, it would difficult to calculate the coupon issuance number and the number of coupon uses for each program or commercial message and it is also difficult to evaluate (research) the advertising effect for each commercial message in the Landesmann system.

Hence, combination of Landesmann with Spector would still not lead one of skill in the art to compile history information, calculate issuances and uses of the coupon and determine a fee for the program or commercial message in the manner specifically recited in the independent claims.

It is respectfully submitted that the additions from Kitsukawa and Lemon proposed in the obviousness rejections would not make up for the deficiencies of Spector and Landesmann.

Kitsukawa discloses a home terminal system for receiving communications, including coupon information, and capturing information for selected coupons on-demand, in response to user selections. In Kitsukawa, the user system stores the data set including the coupon information and the television program data on a removable recording medium (column 11, lines 37 to 54). The information collection center collects the information on the TV programs from the user systems and uses the collected data for statistical analysis purposes (column 12, lines 1-20). However, Kitsukawa does not describe counting accesses from the audiences to the displayed advertised information and thus does not mention determining a fee for the program or commercial message according to the access count, particularly for the use in managing broadcast or transmission. The collection center of Kitsukawa only collects the television program data but not any information regarding the coupon (see column 12, lines 7-20). Thus, the further addition Kitsukawa to the combination of Spector and Landesmann would not lead to a further modification to track the program or commercial message, in combination with issuances and uses of the coupon, and then determine the necessary fee for the broadcast of the program or commercial message based on issuances and uses of the coupon in the precise manner, as recited in either claim 11 or claim 15.

Lemon is cited for using an overall threshold with respect to coupon issuance. A threshold processing added to the combination of Spector, Landesmann and Kitsukawa would not result in a system that tracks the program or commercial message, in combination with issuances and uses of the coupon, and then determines the necessary fee for the broadcast of the program or commercial message based on issuances and uses of the coupon, as in either claim 11 or claim 15.

For the reasons outlined above, neither the combination of Spector, Landesmann and Kitsukawa nor the combination of Spector, Landesmann, Kitsukawa and Lemon would satisfy all requirements of independent claim 11 or of independent claim 15. Hence, the independent claims as well as the claims that depend therefrom should all be patentable over the art applied in the rejections under 35 U.S.C. § 103. Applicants therefore respectfully request withdrawal of those rejections in view of the claim amendments and discussion of patentability presented herein.

Conclusions

Upon entry of the above claim amendments, claims 11, 15, 31, 34, 35, 37, 38 and 40-44 are active in this application, all of which should be definite as well as patentable over the art applied in the Action. Applicants therefore submit that all of the claims are in condition for allowance. Accordingly, this case should now be ready to pass to issue; and Applicants respectfully request a prompt favorable reconsideration of this matter.

It is believed that this response addresses all issues raised in the January 25, 2008 Office Action. However, if any further issue should arise that may be addressed in an interview or by an Examiner's amendment, it is requested that the Examiner telephone Applicants' representative at the number shown below.

Application No.: 10/099,966

To the extent necessary, if any, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP

A handwritten signature in black ink, appearing to read "Keith E. George". The signature is fluid and cursive, with the first name "Keith" being more prominent.

Keith E. George
Registration No. 34,111

600 13th Street, N.W.
Washington, DC 20005-3096
Phone: 202.756.8603 KEG:apr
Facsimile: 202.756.8087
Date: April 25, 2008

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as our correspondence address.**